IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

-

WRIT PETITION NO : 5400 of 1995

Between:

1 M.Ram Reddy S/o. Bhoj Reddy
H.NO.3-5-43/B Ramkote
Hyderabad-500 001
2 M.Vidya Sagar Reddy S/o. Bhoj Reddy
H.NO.3-5-43/B Ramkote
Hyderabad-500 001

..... PETITIONERS

AND

1 The State of A.P. rep.by its Secretary to Govt. Revenue Dept.,
Secretariat Buildings, Saifabad
Hyderabad-500 004
2 The Dist. Collector R.R.Dist
Lakdikapul
Hyderabad
3 The Asst. Director of Survey and Settlement R.R.Dist
4 The Revenue Divisional Officer
Chevella Division R.R.Dist
5 The Mandal Revenue Officer
Shamshabad R.R.Dist
6 The Chief Engineer (R & B) (Special) National Highway Division
Hyderabad
7 The Executive Engineer (R & B) (Special)

National Highway Division
Hyderabad
8 Krishna Mohan Constructions, rep.by its Partner

Prabhakar Reddy,Flat No.403 Air View Apartments,
Punjagutta Hyderabad(R8 dismissed for default

vide Court Order dated: 27/11/2000)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or other appropriate order or direction in the nature of a writ, declaring the impugned action of the respondents, their agents, staff and others in attempting to take over the lands of the petitioners, bearing Survey Nos.70 and 71 situated at Kishenguda (V), Shamshabad (M), R.R.Dist, without following any procedure, prescribed under law, as arbitrary, illegal and sanctioned by law and violative of Articles, 14,21 and 300-A of the Constitution of India and principles of natural justice and consequently restrain them from interfering with the peaceful possession and enjoyment of the petitioners over the said land without following the due process of law in the interest of justice and otherwise the petitioners will be put to irreparable loss and damages. Costs of the petition may be awarded to the petitioners.

Counsel for the Petitioner : Mr. A. NARASIMHA REDDY

Counsel for the Respondents : GP FOR REVENUE

The Court made the following ORDER:

The present Writ Petition has been preferred by the petitioners seeking for a direction in the nature of writ of mandamus to declare that the action of the respondents in attempting to take over the lands of the petitioners, bearing Survey Nos.70 and 71, situated at Kishenguda village, Shamshabad Mandal, Rangareddy District, without following any procedure, prescribed under law, as arbitrary, illegal and violative of Articles 14, 21 and 300-A of the Constitution of India and Principles of nature justice and to direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioners over the said land without following the due process of law.

2. The case of the petitioners is that the agricultural lands in Survey Nos.70 and 71, situate at Kishanguda village, Shamshabad Mandal, Rangareddy District are the patta lands, which stood in the name of their father, Sri M.Bhoj Reddy upto 1953-54. Consequently, the said properties fell to their share in the partition that took place in the year,1954-55 along with the other Survey Numbers and their names were recorded as pattadars, possessors in Sersala pahani for the year, 1955-58 and since then, they were in continuous possession. They sold an extent of 12 acres of lands in Survey No.71 to different persons in the year, 1980 and 1983 and one of the purchasers of the property had also installed H.S.D. outlet, after obtaining licence from the District Collector and dealership from the Indian Oil Corporation and the

said lands are abutting the National Highway No.7 and the other purchasers constructed poultry sheds and godowns and that the petitioners were declared as non-surplus holders, vide proceedings dated 29-7-1979.

It is their further case that the National Highway No.7 falls between Survey Nos.70 and 71 that crosses unmanned level crossing and that the 8th respondent who demarcated the said land and the alignment of the road to connect the fly-over is passing through the lands in Sy.Nos.70 and 71 part. The lands which are affected by virtue of the alignment have not been notified either under the Land Acquisition Act or any notice was issued to them for surrender of the possession of the patta land.

While so, without any notice and without following any procedure, the employees of the 8th respondent at the instance of the respondent Nos.6 and 7, destroyed the fencing of the poultry farms and ran road-rollers, for which a Writ Petition No.20985 of 1994 has been filed by the petitioners and stay of dispossession was granted by this Court. Similarly, one Satish Service Station, which is running the H.S.D. outlet in the land in question, filed Writ Petition No.21145 of 1994 and obtained interim orders, not to demolish the structures in Survey No.71 part in Kishenguda village. In spite of the said order passed by this Court, the respondent Nos.6 to 8 were still marking out for roads in the patta lands of Survey Nos.70 and 71 part. Under those circumstances, the petitioners filed the present Writ Petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

In view of the submission made in the counter that the land was treated earlier as the Government land and hence, the Land Acquisition proceedings were not initiated, it goes to show that there is a dispute with regard to the title of the land.

In the above circumstances, as it involves the question of evidence, this Court cannot interfere with the proceedings under Article 226 of the Constitution of India. Hence, I feel it appropriate to give liberty to the petitioners to avail the remedies open to them, before the appropriate forum, if they so desire.

With the above observations, the Writ Petition is dismissed. No costs.

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(T.MEENA KUMARI, J)

9th September, 2004.

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To

1 The State of A.P. rep. by its Secretary to Govt. Revenue Dept.,
Secretariat Buildings, Saifabad.
Hyderabad-500 004
2 The Dist. Collector Ranga Reddy District.
Lakdikapul,
Hyderabad.
3 The Asst. Director of Survey and Settlement Ranga Reddy District.
4 The Revenue Divisional Officer,
Chevella Division Ranga Reddy District.
5 The Mandal Revenue Officer,
Shamshabad Ranga Reddy District.
6 The Chief Engineer (R & B) (Special) National Highway Division,
Hyderabad.
7 The Executive Engineer (R & B) (Special)

National Highway Division,
Hyderabad.
8 Two CCs to the GP for Revenue, High Court

Buildings, Hyderabad (O.U.T.)

9 Two CD Copies.